

Return Date: December 14th, 2017
Time: 2:30 P.M.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13
Case No. 17-12186 CGM

ANTHONY BRIATICO,

NOTICE OF MOTION

Debtor(s)

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PLEASE TAKE NOTICE, that upon the annexed application of Jeffrey L. Sapir the Chapter 13 Trustee herein, a motion will be made before the Hon. Cecelia G. Morris, United States Bankruptcy Judge, at the United States Courthouse, located at One Bowling Green, New York, New York, on the 14th day of December, 2017, at 2:30 P.M. for an order dismissing the Chapter 13 case pursuant to 11 U.S.C. §1307(c)(1) and (c)(4) and (c)(9) on the ground that there has been unreasonable delay by the debtor that is prejudicial to creditors, in that the debtor has failed to remit timely plan payments to the trustee; and for such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, are to be served on the undersigned and filed with the Court no later than three (3) days prior to the return date of this motion, and (a) must comply with the Bankruptcy Court's electronic filing system in accordance with General Order M-242 and Supplemental General Order M-269.

Dated: White Plains, New York
November 14th, 2017

/s/ Jeffrey L. Sapir
Jeffrey L. Sapir, Esq. (JLS 0938)
Chapter 13 Trustee
399 Knollwood Road
White Plains, New York 10603
Chapter 13 Tel. No. 914-328-6333

TO: United States Trustee
102 Varick Street #1006
New York, New York 10014

Anthony Briatico
433 West 34th Street # 13-H
New York, New York 10001

Norma E. Ortiz, Esq.
Ortiz & Ortiz, LLP
32-72 Steinway Street # 402
Astoria, New York 11103

Rushmore Loan Management Services, LLC
c/o Fein Such & Crane, LLP
28 East Main Street # 180
Rochester, New York 14614

MTGLQ Investors, LP
c/o Rushmore Loan Management Services, LLC
P.O. Box 55004
Irvine, California 92619

NYS Department of Taxation & Finance
Bankruptcy Section
P.O. Box 5300
Albany New York 12205

Internal Revenue Service
P.O. Box 7347
Philadelphia, Pennsylvania 19101-7346

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13
Case No. 17-12186 CGM

ANTHONY BRIATICO,

APPLICATION

Debtor(s)

----- -X

TO THE HON. CECILIA G. MORRIS, BANKRUPTCY JUDGE:

1. The debtor filed the instant voluntary Chapter 13 proceeding on August 6th, 2017.
2. A hearing on confirmation was held on November 9th, 2017.
3. The debtor failed to comply with the provisions of 11 U.S.C. §1307(c)(1) and (c)(4).
4. The debtor has failed to remit timely plan payments to the trustee, having remitted but one payment, and being, at this juncture, two months in arrears.
5. Upon information and belief, the plan has failed to be served upon creditors.
6. The debtor has failed to complete the required financial management course.
7. Loss mitigation has been requested but to date no order has been entered.
8. The debtor's plan is deemed insufficient for the tax claims.
9. The debtor has created unreasonable delay that is prejudicial to creditors.
10. The debtor having failed to comply with the abovementioned sections of the Bankruptcy Code, this Chapter 13 case should be dismissed pursuant to 11 U.S.C. §1307 (c)(1), (c)(4), (c)(9); and for such other and further relief as this Court may deem just and proper.

Dated: White Plains, New York
November 14th, 2017

/s/ Jeffrey L. Sapir
Jeffrey L. Sapir

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13
Case No. 17-12186 CGM

ANTHONY BRIATICO,

Debtor(s)

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AFFIDAVIT OF MAILING

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss.:

Lois Rosemarie Esposito, being duly sworn, deposes and says:

I am not a party to the action herein, I am over the age of 18 years and reside in
the County of Westchester, State of New York.

On November 14th, 2017, I served a true copy of the within document, to the
herein listed parties at the address(es) designated for that purpose, by mailing same in a properly
sealed envelope with postage prepaid thereon, in an official depository of the United States
Postal Service within the State of New York to the following:

TO: United States Trustee
201 Varick Street # 1006
New York, New York 10014

Anthony Briatico
433 West 34th Street # 13-H
New York, New York 10001

Norma E. Ortiz, Esq.
Ortiz & Ortiz, LLP
32-72 Steinway Street # 402
Astoria, New York 11103

Rushmore Loan Management Services, LLC
c/o Fein Such & Crane, LLP
28 East Main Street # 180
Rochester, New York 14614

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Irvine, California 92619

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Bankruptcy Section
P.O. Box 5300
Albany New York 12205

Internal Revenue Service
P.O. Box 7347
Philadelphia, Pennsylvania 19101-7346

s/ Lois Rosemarie Esposito
Lois Rosemarie Esposito

Sworn to before me this
14th day of November, 2017

/s/ Jeffrey L. Sapir
Jeffrey L. Sapir
Notary Public, State of New York
No. 02SA8764500
Qualified in Rockland County
Term Expires: 12/31/18